IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 4823 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHANDULAL SHANTILAL PATEL & ANR

Versus

DHIRAJLAL PARMANANDDAS PATEL & ORS

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Appearance :

MR MP PRAJAPATI for Appellants
MR MEHUL S SHAH for Respondent No.1
MR SURESH M SHAH for Respondent No. 1
None for Respondents : 2 to 6

Respondent No. 2.2/1 Unserved - expired.

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 04/10/2005

ORAL JUDGMENT

1 Heard learned counsels for the parties.

2 This First Appeal is preferred against

judgment and decree passed by 7th Joint Civil Judge(Senior Division), Bhavnagar, on 27th of December, 2000, in Special Civil Suit No. 45/86. The suit came to be dismissed and hence original plaintiffs have filed the present Appeal.

3 For the purpose of jurisdiction and court fee, undisputedly, the suit was valued below Rs. 5 lakhs. The court fee of Rs.60/- is affixed on the plaint.

4 With coming into force the Gujarat Civil Courts Act, 2005 on 9th of May, 2005, Appeals from the decrees and orders passed by the Court of Senior Civil Judge in original suits and proceedings of civil nature shall, when such appeals are allowed by law, would lie to the Court of District Judge of the District when the amount or value of the subject matter of the original suit or proceedings is less than Rs. 5 lakhs or such other sum as the High Court may, from time to time, specify. By virtue of sub-

Section (3) of Section 30 of the Gujarat Civil Courts Act, 2005, all Appeals and such proceedings pending before any other court stand transferred to the District Court if the subject matter of the suit was valued at less than Rs. 5 lakhs and the judgment and decree is passed by Senior Civil Judge.

5 Undoubtedly, in the present Appeal, the suit is valued at less than Rs. 5 lakhs and the Appeal has arisen from the judgment and decree of a Senior Civil Judge.

6 Similar view is taken by this Court in the matter of Madhu Industries vs. Sterling Refractories Corporation & Ors. in First Appeal No. 2913 of 2004 vide order dated 14th of June, 2005 (Coram: A.L.Dave, J.). Learned Advocate Mr. M.S.Shah for the opponents submits that otherwise also the Appeal would be required to be transferred to the appropriate court as irrespective of the Gujarat Civil Courts Act, 2005, this Court is lacking jurisdiction to entertain this Appeal.

7 In this view of the matter, this First Appeal No. 4823 of 2001 along with Civil Application No.8485 of 2004 stand transferred to the concerned Court of District Judge for disposal in accordance with law. The Registry shall take necessary steps immediately for transfer of this Appeal, Civil Application as well as any other Record and Proceedings in connection with this Appeal to the concerned Court of District Judge.

8 So far as this Court is concerned, First Appeal No.4823 of 2001 as well as Civil Application No. 8485 of 2004 stand disposed of.

(J.R.VORA, J.)

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